

GAYLYNN KIRN CONANT, State Bar No. 161247
gkc@llcplp.com
LOMBARDI, LOPER & CONANT, LLP
Lake Merritt Plaza
1999 Harrison Street, Suite 2600
Oakland, CA 94612-3541
Telephone: (510) 433-2600
Facsimile: (510) 433-2699

Attorneys for Defendants

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, ROBERT BIRGENEAU
CONSTANCE PEPPERS CELAYA, ADAN
TEJADA, VICTORIA HARRISON, ALLAN
KOLLING, TOM KLATT and SUSAN VON
SEEBURG

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHRISTINE CHANG, individually and as
Guardian ad Litem for ERIC SUN,
disabled,

Plaintiff,

v.

ROCKRIDGE MANOR
CONDOMINIUM, et al.,

Defendants.

Case No. C-07-4005 EMC

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION TO DISMISS
PURSUANT TO FRCP 12(b)(6) OR, IN
THE ALTERNATIVE, MOTION FOR
MORE DEFINITE STATEMENT [F.R.C.P.
12(e)]**

Date: November 28, 2007
Time: 10:30 a.m.
Courtroom: C
Judge: Magistrate Judge Edward M. Chen

The motion of Defendants THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, ROBERT BIRGENEAU, CONSTANCE PEPPERS CELAYA, ADAN TEJADA, VICTORIA HARRISON, ALLAN KOLLING, TOM KLATT and SUSAN VON SEEBURG for an order dismissing the Complaint pursuant to FRCP 12(b)(6) came on for hearing on November 28, 2007. Defendants appeared through GayLynn Kirn Conant of Lombardi, Loper & Conant, LLP, and plaintiff, Christine Chang, appeared in *propria persona*. The court, having read and considered the motion and supporting papers, opposition papers and good cause appearing:

IT IS HEREBY ORDERED:

Defendants' Motion to Dismiss is GRANTED, in its entirety, without leave to amend, on the following grounds:

- The claims asserted against the University defendants are barred by the immunity afforded to state public entities and their officials by the Eleventh Amendment to the U.S. Constitution;
- The claims asserted against the University defendants are barred by the implied immunity afforded to public employees not otherwise immune by virtue of the Eleventh Amendment to the U.S. Constitution;
- Plaintiff's federal civil rights claim fails as no cognizable interest under §1983 has been identified and the vague, conclusory allegations of university participation in civil rights violations are insufficient to state a cause of action;
- The tort claims are barred by immunities available to the University defendants;
- The tort claims asserted are barred by the litigation privilege [California Civil Code §47(b);
- All causes of action asserted against the University defendants concerning the "pre-judgment conduct" are barred by the applicable statute of limitations;
- All causes of action asserted against the University defendants are without merit as plaintiffs' Complaint is devoid of facts sufficient to state a cause of action for any conceivable theory in any event;
- All causes of action are barred by the doctrine of res judicata;
- Christine Chang has no standing to represent plaintiff Eric Sun in propria persona.

IT IS SO ORDERED.

DATED: November ___, 2007

HONORABLE EDWARD M. CHEN